Filed 4/19/10 Dwyer v. Hartford CA1/4

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

SHELLEY D. DWYER, Plaintiff and Respondent, v. JOHN J. HARTFORD, Defendant and Appellant.	A123976 (San Mateo County Super. Ct. No. CIV459795)

In 2006, respondent Shelley D. Dwyer was served with a writ of execution seeking to garnish a $400,000 debt that she owed to William Giguiere, in order to satisfy a 1994 judgment that Giguiere owed to appellant John J. Hartford. Giguiere also demanded payment of the debt that Dwyer owed him. Dwyer filed an equitable action in interpleader, asking the trial court to determine which claimant was entitled to the approximately $370,000 that she paid into court—the part of the debt she owed Giguiere that Hartford also claimed. (Code Civ. Proc., § 386.) The trial court ordered that Hartford be paid $300,000 from the interpleaded funds to satisfy the 1994 judgment.

Between the more than $300,000 awarded to Hartford in the interpleader action and $105,000 paid to him in April 2008 from the sale of a Fair Oaks property owned by Giguiere, Hartford has received the full amount due on his 1994 judgment. Despite this, Hartford appeals, raising various challenges to Dwyer's interpleader action. Having considered the response[1] we received to our request for letter briefs from both parties

[1] Hartford filed no response to our request for letter briefs.

about the propriety of Hartford's appeal, we conclude that his purported appeal must be dismissed.

Any party aggrieved in a civil action may appeal. (Code Civ. Proc., § 902; *County of Alameda v. Carleson* (1971) 5 Cal.3d 730, 736.) To be an aggrieved party, an appellant's interests must be injuriously affected by the challenged judgment. (*County of Alameda v. Carleson, supra,* 5 Cal.3d at p. 737; *Rebney v. Wells Fargo Bank* (1990) 220 Cal.App.3d 1117, 1128-1129.) By the time of the November 2008 judgment, Hartford received the full value of his approximately $370,000 judgment lien. Thus, the November 2008 judgment from which he appealed was one in his favor. A party has no right to appeal from a judgment in his or her favor. (*Widener v. Hartnett* (1938) 12 Cal.2d 287, 290; *Maxwell Hardware Co. v. Foster* (1929) 207 Cal. 167, 170; *Soldate v. Fidelity National Financial, Inc.* (1998) 62 Cal.App.4th 1069, 1073; see 9 Witkin, Cal. Procedure (5th ed. 2008) Appeal, § 41, pp. 102-103.) As Hartford is not an aggrieved party, we dismiss his purported appeal.

In April 2009, the trial court awarded Dwyer $56,156 in attorney fees and costs to be paid from the remainder of the funds in interpleader. This award cannot form a basis for Hartford's appeal from the November 2008 judgment. That judgment awarded him the sum he sought, although it reserved the issue of an attorney fees award for a later time. In April 2009, a supplemental judgment was filed making a specific award of Dwyer's attorney fees and costs from the funds in interpleader, with the remainder of the fund going to Hartford. He was given notice of the April 2009 supplemental judgment, but did not appeal from it. The time for filing such an appeal has expired. (See Cal. Rules of Court, rule 8.104(a).) The subsequent attorney fees award memorialized in the April 2009 supplemental judgment does not provide any basis for Hartford's appeal from the November 2008 judgment. (See *Soldate v. Fidelity National Financial, Inc., supra,* 62 Cal.App.4th at p. 1073.)

The purported appeal is dismissed.

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Reardon, J.

We concur:

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Ruvolo, P.J.

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Rivera, J.